IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 408 OF 2007

Shri Namdeo Tatya Khade ...Petitioner
V/s.
Dattatraya Sadashive Khade & Ors. ...Respondents

Mr.Ajay A. Joshi for the Petitioner.
Mr.P.A. Pol, APP for the State.
Mr.Y.M. Nakhawa, APP for State.

CORAM : V.M. KANADE, J.

DATED : AUGUST 6, 2007

P.C. :-

. Heard the learned Counsel for the petitioner.

2. The petitioner is challenging the order passed by the trial Court whereby his application for discharge was rejected by the trial Court and the revision preferred by him in the Sessions Court against the said order is also dismissed.

3. Respondent No.1 filed a complaint against the petitioner under Sections 193, 209, 465, 466, 468, 471, 474, 420 of IPC. It is the case of the complainant that the name of his father was deleted from his 7/12 extract on the basis of forged and fabricated documents. It is

alleged that the petitioner had made a statement in the name of deceased Dagadu and on the basis of the said statement, the 7/12 extract was changed in favour of the petitioner. After the complainant came to know about this, he filed a complaint against the petitioner and two other persons.

4. The learned Counsel for the petitioner submits that there are no averments made in the complaint alleging that the petitioner had made a false report or had impersonated deceased Dagadu. It is submitted that specific allegations have not been made in the complaint and in the absence of these specific allegations, no cognisance of alleged offence of cheating could have been taken by the trial Court. In support of the said submission, he invited my attention to the judgment of the Supreme Court in the case of **Ram Biraji Devi and Another v. Umesh Kumar Singh and Another, reported in (2006) 6 Supreme Court Cases Page 669.** He also relied on the judgment of the Apex Court in the case of **Ram Jas, Appellant v. State of U.P., Respondent, reported in AIR 1972 Supreme Court Page 1811**. He submitted that

the process is issued though the complainant has not disclosed the name of the person and in support of the said submission, he relied on the judgment of this Court reported in **2001 Criminal Law Journal 295.**

5. It is not possible to accept the submission made by the petitioner. Both the Courts below have rejected his application by holding that prima facie case is made out by the complainant against the petitioner. In my view, no case is made out by the petitioner to set aside the order passed by the Revision Court and the order passed by the Magistrate. The ratio of these judgments on which reliance is placed by the petitioner is not applicable to the facts of the present case. No reason to interfere with the impugned order while exercising writ jurisdiction of this Court.

. Writ Petition is dismissed.

(V.M. KANADE, J.)